IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON

In the Matter of the Marriage of:

RAYNE ELIZABETH O'DONNELL-LAMONT (deceased)	) Case No. C98-1284 DR
Petitioner, and	)
MICHAEL DAVID LAMONT, JR.	) JUDGMENT RE CUSTODY, PARENTING TIME AND THIRD-PARTY VISITATION
Respondent and	)
CHRISTINE AND PATRICK O'DONNELL,	)
Intervenors, and	)
DARRELL MILLER,	)
Intervenor.	)

THIS MATTER came before the Honorable Steven L. Price for trial on April 28 and May 4, 5, 10, 11, and 18, 2000. Michael Lamont ("Father") was represented by Matthew H. Kehoe of MOORE & KEHOE, LLP. Darrell Miller was represented by Jeffrey Renshaw of YATES, MATTHEWS & MORASCH, P.C. Christine and Patrick O'Donnell ("Grandparents") were represented by Kimberly A. Quach of

GEVURTZ, MENASHE, LARSON & HOWE, P.C. The Court heard the testimony of Father, Grandparents, Tea Engstrom, Kathy Harris, Matt Lyle, Debbie Marinello, Greg McKenzie, Darrell Miller, Martha Miller, Katie O'Donnell, Craig Schreiter, Eugene Sweet, Wende Thomas, Dr. Edward Vien, Psy. D., Dan Wentworth, Sue Woodson, and Ms. Zicker, the Court also having considered the parties' trial memoranda, Grandparents' Supplemental Memorandum re Constitutionality of ORS 109.119, and the exhibits admitted during trial; therefore, the court makes the following findings of facts and judgment:

I. FINDINGS OF FACT

1. The courts of the state of Oregon have exclusive jurisdiction to make child custody determination in this matter under the provisions of the Uniform Child Custody Jurisdiction & Enforcement Act, codified at ORS 109.701 et seq., and the Parental Kidnaping Protection Act, codified at 28 USC §1738A, because Oregon is the children's undisputed home state;
2. Father was served with a true copy of Grandparents' Motion to Intervene by Psychological Parent to Establish Custody under ORS 109.119(1) or to establish Guardianship or both on July 30, 1999;
3. The children at issue in this case are Taryn Lamont (dob 09/19/92) and Seaira O'Donnell-Lamont (dob 1/29/96);
4. Father and Mother were married in December 1991. Mother and Father separated intermittently during the marriage. Even when together, Mother was the primary, nurturing

parent. When the parents were separated, Mother remained the primary parent;

5. During the marriage (and even after the parents' divorce), Grandparents and Mother and the children (and sometimes Father) made it a point of living close by each other. Mother relied heavily on Grandparents and other family for childcare and emotional and, at times, financial support.

6. Father was less involved than Grandparents in the children's lives before Mother's death. During the marriage, Father sometimes lived out of the family home. During the separation, he lived out of the immediate area and had frequent, but not regular, parenting time with the children;

7. Father abused Mother during the marriage. Twice during the parties' last separation, he violated the FAPA restraining order she secured in a manner that was alarming or threatened violence. Twice in the three (3) months before Mother's death, Father was involved in drunken physical altercations;

8. Throughout the marriage, Father went through many jobs. Although he was always capable of obtaining a decent paying job, he was not capable of keeping one. He was fired from at least one job for dishonesty;

9. During the marriage, Father abused some illegal substances, was unstable in employment, and was dishonest. Although he claims things have changed, his is not convincing;

10. On March 20, 1998, Father abused Mother to the point justifying entry of a Family Abuse Prevention Act Order that Father did not

contest. The FAPA Order allowed only supervised parenting time between the children and Father;

11. In spite of the FAPA Order, Father, Mother and the children took a trip to Hawaii as a family in July 1998. Grandfather drove them to and from the airport;

12. Father and Mother signed a Stipulated Judgment of Dissolution of Marriage in early August 1998 that became effective in September 1998. The Stipulated Judgment required that Father share only supervised parenting time with the children;

13. In addition to the trip to Hawaii, Mother condoned Father's violation of the FAPA Order by initiating prohibited contact, and Mother allowed some unsupervised parenting time in violation of the Stipulated Judgment;

14. Mother used the FAPA Order to control Father. She enforced the provisions when it suited her purpose, not otherwise;

15. In late 1998, Mother met Portland police officer Darrell Miller. Beginning in December 1998, Mr. Miller was off work with an injury and spent most days and nights at Mother's apartment, where he also spent time with the children. He grew quite fond of them and they of him;

16. In March 1999, Mr. Miller, Mother and the children traveled to southern California to visit friends and Disneyland. While on this trip, Mother (who was 27 at the time) collapsed suddenly from a heart problem and never revived. The children were not present during her passing. Mr. Miller then returned with

children to Oregon. Grandparents and Father met them at the airport. The day after their arrival, the adults told the children that their Mother had passed on;

17. At the time of Mother's passing, Father was working in Eugene. He worked (and continues to work) in construction making a decent income. At the time of Mother's passing, he was living in a trailer not suited to a family. He and Grandparents agreed that Grandparents would keep the children. This was a logical thing to do because Grandparents lived close to Mother's and the children's residence and they were very close to the children;

18. Had Father lived in the Portland area at the time of the Mother's passing, he would have been better able to step into the children's lives when Mother died;

19. Father felt overwhelmed at having become the sole surviving parent of the children. This was exacerbated by Grandparents' effort to control Father and the children;

20. Father's family was not much of a resource. They did not live in the area immediate to the children. Mother had fallings out with Father's parents over the years. Father's family was dysfunctional, with physical and substance abuse a common theme. Earlier in the marriage, Mother and Father had lived with paternal grandfather in the Detriot Lake area, which ended with Mother having a falling-out with paternal grandfather;

21. Over the years, Mother would get into a dispute with one or the other of Father's parents and decide to never have anything to do with them

again. She would write homemade "wills" purporting to list the major failings of the paternal grandparents and conditions, if any, under which that person could ever see the children if the parents were to die. Mother would write that her pronouncements were not to be contested. She would then tell Father to sign them, and he would;

22. Mother had a tendency to control others;

23. Grandparents, particularly Grandmother, showed controlling traits at the time of Mother's passing. They did not want Father to have the children, at least beyond their ability to control his custody, and took steps to keep the children. They tended to dote on the children anyway. This, along with the loss of their daughter, put them into high gear for protecting the children upon Mother's passing;

24. Father and Grandparents, at Grandparents' insistence, engaged in mediation regarding the children's future shortly after Mother died. Grandparents pushed to keep the children and Father resisted. Eventually, Father refused to sign a Guardianship agreement that Grandparents' attorney, Greg MacKenzie, prepared;

25. In July 1999, following these efforts, Father took the children and did not return them. He did not tell Grandparents in advance that he was going to do so. Father and Grandparents were not on good terms from this point forward, to put it mildly;

26. Father agreed to let Grandparents have the children for two (2) weeks in late July. Grandparents took the children but did not

return them. Instead, they went to court for an *ex parte* status quo order, alleging that theirs was the status quo residence. The Court granted the status quo order on July 30, 1999.

27. Grandmother is not so much deceptive as naive in testifying that she did not see how Grandparents' conduct, along with the allegations made in support of it, caused hard feelings between Father and Grandparents;

28. On August 17 and 18, 1999, The Honorable Donald R. Letourneau heard Father's challenge to Grandparents' *ex parte* quo order. At the hearing, Father's position was that he would keep the children in the Salem area (he was living in Keizer) indefinitely, and allow Grandparents time with the children. Judge Letourneau's Order After Hearing dated August 29, 1999 returned the children to Father. They have remained with Father primarily through trial;

29. Judge Loutourneau awarded Father $3,000 in attorney fees following the hearing on August 17 and 18, 1999. Grandparents have fully satisfied this obligation;

30. On August 19, 1999, Judge Loutourneau also signed an order required Dr. Edward Vien, Psy. D., to conduct a custody evaluation. The Order did not specify now Dr. Vien's fees were to be divided. The O'Donnell's paid Dr. Vien $4,500. Father would not contribute to Dr. Vien's fee;

31. As of October 1, 2000, Father and his significant other, Laura Oliver, left with the children for Montana. They did so secretly, without notice to the Grandparents. Father

resisted the Grandparents' efforts to locate him and the children;

32. Finally, on October 28 and November 15, 1999, the Honorable Michael J. McElligott found Father in contempt and ordered him to return to Oregon and live within a 60 mile radius of the Washington County Courthouse on or before November 30, 1999, or to return the children to Grandparents. Father complied by moving back within the specified radius;

33. Judge McElligott further ordered that Father pay Grandparents $1,500 in attorney fees. Father has not satisfied any of this obligation;

34. Laura Oliver brought her own set of problems to the relationships with Father and the children. These included untreated anger and substance abuse problems that were partly the cause of her loss of custody of her children from prior relationships;

35. Ms. Oliver has a history of substantial anger and substance abuse problems. The Court is not satisfied that she has overcome her problems. Thus, her influence in the children's lives is likely to make them worse instead of better;

36. After returning from Montana to Oregon, Father, Ms. Oliver and the children lived with paternal grandfather and step grandmother. Father and Ms. Oliver, who were engaged at the time of trial, had been seriously involved with each other for 18 months or less at the time of trial. They purchased a house together in Mill City, Oregon. The children lived with them at the time of trial;

37. At first, the Court was skeptical of Dr. Vien's

observations and conclusions because the Court assumed the Father was the appropriate custodian of the children. By the end of trial, the Court was in virtual complete agreement with Dr. Vien;

38. Dr. Vien noted that, while not fragile, the children have grief issue to address and emotional needs to be met. Father by history and inclination will not adequately address those issues;

39. The violence and substance abuse of Father's family, while perhaps dormant, is a potential threat to the children;

40. Father has the potential to be a good custodial parent. Father meets the minimum standards of fit parenthood. He has had many shortcomings and has not satisfied the Court that these shortcoming have been corrected. However, he loves the children and has the ability to correct his deficiencies as a parent;

41. Father loves his children. He has attempted to provide for them. He is commended for that. Many parents do not try. However, he was never the primary, nurturing parent. He has been abusive to Mother and has difficulty controlling his anger. His children have picked up on his anger toward Grandparents. He has a history of substance abuse. He has too rapidly secured an unproven partner, with many similar issues, in an effort to set up a home for the children. The Court cannot accept his word that the situation is a good as he would like the Court to believe, or perhaps as he has led himself to believe. His life is unstable, including many job changes;

42. All of the dangers that Father presented to the children at Mother's death are still there. These circumstances present sufficient threat of harm to the children to defeat whatever supervening right Father many have as a biological parent. Although Father is not so unfit as to justify termination of his parental rights, he is sufficiently dangerous to their welfare to justify limitation of his parental rights;

43. Within six (6) months of filing their Motion to Intervene - from about March 27, 1999 to on or about July 7, 1999 - the Grandparents had physical custody of the children in Grandparents' home. Mother had just died. Father was living near Eugene as a single adult and chose to have Grandparents provide the primary physical and emotional care of the children. The children were emotionally distraught due to the recent and unexpected death of Mother, who had been their primary parent during the parents' separation and divorce;

44. On a daily basis, Grandparents provided the children with food, clothing, shelter and incidental necessaries as well as care, education and discipline. This was accomplished through interaction, companionship, interplay and mutuality that fulfilled the children's physical and psychological need for a parent. At the children's most vulnerable hour, Grandparents took them in, fed them, loved them, and guided them. Because of the years of close contact between Grandparents and the children, it was natural for Grandparents to do this and for the children to look to them for this parenting;

45. This was not a case where distant Grandparents came from another region of the country to step into the breach brought on by the unexpected death of their daughter. These Grandparents were geographically and emotionally close to the children throughout their lives;

46. Grandparents are psychological parents within the meaning of ORS 109.119 (6) (a);

47. The children are bonded to Father and Grandparents. The bond is strong to all three (3). The bond is slightly stronger to Father. However, this is a much closer call than would normally be the case between a father and grandparents because Grandparents have played a closely supportive role of Mother in raising the children. During these same years, Father was less than a primary nurturing parent of the children. He was out of the home for extended periods. He as uninvolved in the hourly tasks of child-raising. The supportive years made the children ripe for establishment of a child-parent relationship with Grandparents when Mother passed away, much more so than would have been the case for more geographically and emotionally distant grandparents;

48. Grandparents have a more constructive interest in and attitude towards the children than Father. Father is less aware and less sensitive to the children's emotional and developmental needs than Grandparents. Father is not completely oblivious to these concerns. He has made some efforts. However, he lags far behind the Grandparents in this area. This consideration is particularly important where, as here, the children have sustained a substantial loss - the

death of a mother-and need emotional support to deal with that loss;

49. It is desirable to continue all the relationships. In terms of extended relationships it is more desirable to continue relationships, with the maternal extended family rather than with the paternal extended family. While the latter is trying to be supportive, it is substantially more dysfunctional and given to anger, violence and substance abuse. Mother's family is constructively supportive of the children;

50. Grandparents' willingness to facilitate Father's relationship with the children weight heavily in favor of Grandparents. Father's conduct convinces the Court he will remove the children from this area if possible and will do all he can to eliminate contact between the children and Grandparents. His precipitous move to Montana shows that he cannot be trusted when he says the contrary. More importantly, it shows an insensitivity to the children's need for the emotional support of and relationship with Grandparents. Running away for a "fresh start" suggests Father's lack of insight into how to constructively deal with problems;

51. The Court considered the desirability of the children being raised by parents rather than Grandparents. Parents are usually more physically able to parent. Here, Grandparents are reasonably able to physically care for the children, although Father is in better overall health. Children want to be like the majority of their friends and schoolmates, who are raised by one or both parents. This consideration favors Father;

52. It is in the children's best interests to be raised by Grandparents.;

53. The Court's overriding impression of Father is that honesty has no value for him. He had said whatever he believed would help him at the time, without regard to its truthfulness. Father's word alone is insufficient to prove anything. The Court counted over 25 lies by Father ranging from statements to Judge Letourneau regarding remaining in Salem area to statements concerning Ms. Oliver's anger and drug issues. They include denials of statements Dr. Vien attributed to him and denials of the nature and number of restraining order violations;

54. Father acted in bad faith in this action;

55. Father should have substantial parenting time. Because of the distance between Father's and Grandparents' household, midweek parenting time is impractical. Also because of distance, a Friday evening pickup would be a hardship for the children;

56. Mr. Miller is not a psychological parent of the children within the meaning of ORS 109.119 (6) (a) because he did not supply the children's physical needs even when he lived in the same household as them. He also did not reside within the children's household within six(6) months of his motion to intervene;

57. Mr. Miller did not establish that he had an "ongoing personal relationship" within the meaning of ORS 109.119 (6) (d). His relationship had not lasted a year when he moved to intervene. His relationship with the children began in December 1998 when he

began spending most of his time at the children's household. He filed his motion for intervention on October 12, 1999, less than a year later. On December 6, 1999, The Honorable John B. Lewis granted Mr. Miller's Motion to Intervene in this action;

58. Mr. Miller's contact with the children after Father regained their custody was not a substantial continuation of the relationship that had been established before then. He saw the children only on the days Grandparents had the children, and then for only limited times;

59. Even if Mr. Miller's contact with the children prior to July 1999 was of a nature sufficient to establish an "ongoing personal relationship" within the meaning of ORS 109.119 (6) (d), the later contact was not. So, the later contact was not "substantial continuity" of the earlier contact;

60. The Court commends Mr. Miller for his genuine concern for the children and his willingness to emotionally and financially support what he believes are their best interests;

Having made the above findings of fact, it is hereby ORDERED and ADJUDGED that:

II. JUDGMENT OF CUSTODY

1. PARENTING TIME. The children shall reside primarily with Grandparents except for the parenting time set forth specifically below, when they shall have parenting time with Father:

A. Pre-school and School Schedule.

I. The school schedule begins the Saturday before the academic year commences at 9:00 a.m. and ends the Saturday after the academic year recesses at 9.:00 a.m.

ii. Father shall share parenting time with the children on the first, third and (if there is one) fifth weekend of every month beginning at 9:00 a.m. on Saturday and ending on Sunday at 6:00 p.m. A weekend is in a month of Saturday is in the month;

iii. For the month of September 2000, the parenting time set forth in the Pendente Lite Order supercedes any contrary aspect of this Judgment;

B. Winter Vacation Schedule.

I. In all even-numbered years, Father shall have the children beginning at 7:00 p.m. on the day that school adjourns for Winter Vacation until 10:00 a.m. on December 25th of each year; Grandparents shall have the child for the remainder of the children's winter vacation;

ii. In all odd-numbered years, Grandparents shall have the children beginning at 7:00 p.m. on the day that school adjourns for Winter Vacation until 10:00 a.m. on December 25th of each year; Father shall have the child

for the remainder of the child's winter vacation until 7:00 p.m. the day before school resumes;

iii. The alternate weekend parenting time schedule shall not apply during the winter vacation period;

C. Summer Parenting Time.

I. Summer vacation begins the Saturday after school recesses for the summer at 9:00 a.m. and ends the Saturday before school recommences at 9:00 a.m.;

ii. Unless otherwise agreed upon by the parties in writing, summer parenting time for Father shall be divided into three (3) blocks of time starting and ending on Saturday at 9:00 a.m.; each block shall consist of two (2) weeks [i.e., fourteen (14) days subject to remaining vacation time]. The blocks must be at least a week apart.

iii. Before May 1st of each year, Father shall select and notify Grandparents in writing of the inclusive dates of the summer parenting time period which Father chooses to have with the children;

iv. The alternate weekend parenting time does not apply during the Summer Vacation parenting time;

D. Other Holidays, Events and Vacation Days.

i. The residential schedule for the child for the holidays, events and vacation days listed below is as follows:

(a) Thanksgiving Vacation: Thanksgiving begins on Wednesday at 7:00 p.m through the following Sunday at 7:00 p.m. Father shall enjoy Thanksgiving parenting time with the children in odd numbered years, and Grandparents shall enjoy parenting time in even numbered years;

(b) Spring Vacation: Whether or not one (1) or both children are in school, during the period of school spring vacation (measured from the day after school adjourns through the day before school resumes), commencing at 10:00 a.m. and ending at 7:00 p.m., Father shall enjoy parenting time in odd numbered years and Grandparents shall enjoy parenting time in even numbered years;

(c) Mother's Day: Grandparents shall enjoy time every year from 10:00 a.m. through 7:00 p.m.;

(d) Father's Day: Father shall enjoy time every year from 10:00 a.m. through 7:00 p.m.;

(e) Fourth of July: With the party whose summer schedule includes July 4th;

(f) Children's Birthdays: In even years, Grandparents shall enjoy time with the children on each of their birthdays from 5:00 p.m. through 8:00 p.m. on a school day and 10:00 a.m. through 7:00 p.m. on a non-school day; In odd years,

Father shall enjoy parenting time with the children on their birthdays from 5:00 p.m. through 8:00 p.m. on a school day and 10:00 a.m. through 7:00 p.m. on a non-school day;

(g) Father's Birthday: At Father's option, Father shall spend every year with the children on his birthday from 5:00 p.m. through 8:00 p.m. on a school day and 10:00 a.m. through 7:00 p.m. on a non-school day;

(h) Halloween: Halloween is defined as beginning October 31st at 5:30 p.m. and ending at 9:00 p.m. Father shall share parenting time with the children on Halloween in odd years, and Grandparents shall enjoy time with the children on Halloween in even years;

(E) General Provisions:

i. Personal plans. Personal plans of Grandparents or either of the children (for example, school or church activities), will not be reasons for failing to follow the visitation schedule set forth in the court's order;

ii. Addresses and telephone numbers. Unless otherwise ordered by the court, both Father and Grandparents will provide home addresses and home telephone numbers to the other party. In the event Father is taking the child overnight out of the town of Father's residence, Father shall notify

Grandparents of the location and telephone number, if any, of where the child will be sleeping.

iii. Non-assigned time. Unless otherwise agreed, in writing, Grandparents are responsible for the child during all times not awarded to Father.

iv. Delivery and pick-up. All parenting time shall be exercised in a prompt manner. Unless otherwise agreed, or court-ordered, pick-up and delivery shall occur no more than 15 minutes before or 15 minutes after the time specified for parenting time to begin and end. Grandparents shall have the children fed and ready on time for Father's parenting time with sufficient clothing packed and ready for the parenting time. Father shall return all clothing and feed the children a meal before returning the children from the parenting time period. Father will be responsible for all transportation and shall pick the children up and drop them off at the Grandparents' residence;

v. No-shows for scheduled parenting time and make-ups. Only medical reasons will be considered sufficient for postponement of parenting time with Father. If a child is ill and unable to be with Father during his-her parenting time, make-up parenting time shall occur on the following weekend. However, if Father fails to exercise his parenting time, there will be no make-

up parenting time;

vi. Mutual respect towards the other party. All parties shall not make bad, derogatory other otherwise unflattering comments about the other party or in any way attempt to diminish the love, respect and affection that the child has for the other party;

vii. Support of Father's parenting time. Grandparents shall encourage Father's parenting time with the children and the children shall not be permitted to determine whether the children wish to spend time with Father unless agreed to, in writing, by both parties;

viii. Access to records and events. In addition to the parenting time schedule, unless otherwise specifically ordered by the court, Father shall have the right to visit with the child at school, attend the child's school activities (such as an open house or sports activities), and have full access to school teachers and administrators for complete information about the child in school. ORS 107.154 also affirms additional rights in Father unless otherwise ordered by the Court. Each party shall be responsible for keeping themselves advised of the child's activities and events.

ix. Conflicting dates. The holiday schedule takes precedence over the summer and alternating weekend schedule. Due to the holiday parenting time schedule set out in this Judgment, there may be

occasions when one or both of the parties will have the children in his or their home for three (3) weekends in a row. This could happen because any holiday defined in this Judgment shall replace the normal schedule for a given weekend or time period. In other words, some weekends in a year will be lost due to conflicting vacations and holidays;

x. Daily care. The party with whom the children are staying will be responsible for daily care and will make necessary decisions regarding emergency medical or dental care. Father's rights to make daily care decisions do not include leaving a child unattended in violation of Oregon law, haircuts, permanents, or any substantial changes in the child's appearance (e.g. tattoos, ear piercing, etc.) unless authorized by Grandparents;

xi. Daycare. Father shall be responsible for arranging and paying for daycare for the children during his or her parenting time periods.

xii. Emergencies. Each party will immediately notify the other party of any emergency circumstances or substantial changes in health or safety of the child;

xiii. Writing and telephoning. Father shall be allowed to contact the children once per week by telephone, and shall be permitted unmonitored access in writing with the children;

xiv. Current Addresses/Phone Numbers. Father and Grandparents must keep the other party advised of their address and home telephone number. Father may not take the children out of Oregon without written permission of the Grandparents.

F. Legal Custody. Grandparents are awarded sole legal custody of the children. Their rights include, but are not limited to, the right to enroll them in school and make educational decisions on their behalf, to obtain medical, dental, orthodontic, and mental health care for them, to make health care decisions on behalf of the children, to insure them as dependents, and to claim social security benefits on the children's behalf, if available;

G. Dependency Exemptions. Grandparents shall be entitled to claim the children as exemptions, and to take their credits and child care credits (if applicable) for state and federal tax purposes. Father shall execute any and all waivers and forms prescribed by the Department of Treasury, Internal Revenue Service, and the appropriate state taxing authority to effectuate this provision.

H. Darrell Miller's Claims. The Court does not award Mr. Miller visitation with the children.

I. Attorney Fees. Grandparents are permitted to submit an ORCP 68 statement in accordance with that rule in support of their claim for attorneys fees against Father. Father is permitted to submit an ORCP 68 statement in accordance with that rule in support of his claim for attorneys fees against Mr. Miller, if he

chooses to submit a statement in light of the Court's findings;

J. Dr. Vien's Fee. Whether father should be required to contribute to Dr. Vien's fees is reserved for resolution through submission of ORCP 68 Statement(s).

K. Wardrobe and Toys. The Father shall return the children's wardrobe and toys to the Grandparents;

L. Health Records. Father will provide copies of any immunization records for the children that he has in his possession. If he does not have them, he shall provide a list of health providers the children have seen since July 1999 so Grandparents can obtain the applicable health records.

Dated this 15th day of December, 2000.

/s/Steven L. Price
The Honorable Steven L. Price

APPROVED AS TO FORM:

MOORE & KEHOE, LLP

_____

Matthew H. Kehoe, OSB#90310
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APPROVED AS TO FORM:

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SUBMITTED BY:

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ORS 107.159 - RESTRICTIONS ON CHANGE OF RESIDENCE OF MINOR CHILD

In any court order or decree granting custody of a minor child and parenting time or visitation rights relating to the child, except for an order under ORS 107.700 to 107.732, the court shall include in its order a provision requiring that neither parent shall move to a residence more than sixty (60) miles further distant from the other parent without giving the other parent reasonable notice of the change of residence and providing a copy of such notice to the court.